

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on February 12, 2003 at 8:04 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. George Everett (R)  
Rep. Tom Facey (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Bruce Malcolm (R)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. John Parker (D)  
Rep. Holly Raser (D)  
Rep. Diane Rice (R)  
Rep. Scott Sales (R)  
Rep. Ron Stoker (R)  
Rep. Bill Thomas (R)

**Members Excused:** Rep. Michael Lange (R)

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Pamela Schindler, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for minutes is at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: HB 346, 2/7/2003  
Executive Action: HB 451, Do Pass As Amended

**HEARING ON HB 346**

**Sponsor:** REP FRANK SMITH, HD 98, POPLAR, MONTANA

**Opening Statement by Sponsor:**

**REP. SMITH** opened the hearing on HB 346 by informing the Committee that this is an act that will allow the impoundment of license plates of a person who is convicted of DUI two times and refusing to submit to a BAC test. This bill will also enact a law that will require the offender to have special "DUI" plates, that when renewed will cost an additional \$50. Of this \$50, \$25 will go to the General Fund with the other \$25 going to the local arresting authority.

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 41}***

**Proponents' Testimony:**

**Col. Shawn Driscoll, Montana Highway Patrol**, rose in support of this bill.

***{Tape: 1; Side: A; Approx. Time Counter: 41 - 45}***

**Jim Kimmel, Montana Police Protection Association**, stated to the Committee that this is a good deterrent and would also like to say that the arresting agency would "pick up the plates."

***{Tape: 1; Side: A; Approx. Time Counter: 45 - 52}***

**Jim Smith, Montana Sheriffs and Peace Officers Association, Montana County Attorneys Association**, stated that the organizations he represents support this bill and recognize that deterrence versus punishment has some deterrent value.

***{Tape: 1; Side: A; Approx. Time Counter: 52 - 70}***

**Mike Barrett, Poet**, testified to the Committee about various subjects.

***{Tape: 1; Side: A; Approx. Time Counter: 70 - 97}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. LAZLOFFY** asked of the sponsor why the plates were designed to be so discreet and whether there would be a problem if someone other than the offender such as a co-owner drove the vehicle.

**REP. SMITH** replied that if the license plates were designed to call too much attention to the driver, he would be afraid that this would end up in the courts. He further stated that a plate could be designed for a "co-owner" of the vehicle.

*{Tape: 1; Side: A; Approx. Time Counter: 97 - 147}*

**Closing by Sponsor:**

**REP. SMITH** closed the hearing on HB 346 by stating to the Committee that on line 19 and 20 a "friendly amendment" is being coordinated and by also saying that Arizona and Minnesota have much tougher laws.

*{Tape: 1; Side: A; Approx. Time Counter: 147 - 179}*

**Col. Driscoll** spoke with Mr. MacMaster about amendments and then the Committee discussed what bills were going to be acted upon in Executive Action today.

*{Tape: 1; Side: A; Approx. Time Counter: 179 - 199}*

**EXECUTIVE ACTION ON HB 451**

**Motion:** **REP. NOENNIG** moved that **HB 451 DO PASS.**

**Motion:** **REP. SHOCKLEY** moved that **HB 451 BE AMENDED.**

**Discussion:**

**Mr. MacMaster**, explained the amendments as it pertains to the out-of-state prisoners being segregated from in-state prisoners.

**REP. RICE** inquired of Mr. Williams if this was logistically possible, with **Mr. Williams, Montana Department of Corrections** stating this is possible to segregate the inmates. There were further comments regarding how the women inmates were handled previously at Crossroads Correctional Center.

**Vote:** Motion that **HB 451 BE AMENDED** carried 16-2 with **REPS. HARRIS** and **NEWMAN** voting no. (voice vote)

**Motion:** **REP. LASZLOFFY** moved that **HB 451 DO PASS AS AMENDED.**

**Motion:** REP. FACEY moved that HB 451 BE AMENDED.

**Discussion:**

REP. FACEY proposed an amendment regarding that the out-of-state prisoners must be returned to area of adjudication at least 45 days prior to release or parole. REP. LAZLOFFY questioned whether 45 days is enough and stated that three months is more acceptable.

**Motion:** REP. LASZLOFFY moved that HB 451 BE AMENDED.

**Discussion:**

REP. FACEY agreed with the motion made by Rep. Laszloffy.

**Vote:** Motion that HB 451 BE AMENDED carried 14-4 with REPS. GUTSCHE, NEWMAN, PARKER, and RASER voting no. (voice vote)

**Discussion:**

REP. NOENNIG inquired of REP. NEWMAN why he was against this bill; with his response being that he doesn't want out-of-state prisoners in Montana. REP. FACEY informed the Committee that he was against the bill due to the fact that CCA is a private entity and therefore should "take the hit" if as a private company it is not profitable.

Further comments by the Committee included sympathy for the people of Toole County being laid-off, concerns about the out-of-state inmates family coming to live in the Shelby area, CCA's motivation, safety and security compromised, and the fear that CCC in Shelby will get the "worst of the worst."

REP. NOENNIG put forth a question to Mr. Williams regarding what would happen if this bill was not passed and the ramifications of that decision. REPS. GALLUS, CLARK AND SALES further commented on the possibility of Federal prisoners being brought in and that they would not support this bill.

REP. FACEY then moved a Amendment to have a "sunset" provision added to end this bill in three years.

**Motion:** REP. FACEY moved that HB 451 BE AMENDED.

**Discussion:**

There was general discussion among the Committee members about this amendment.

**Vote:** Motion that HB 451 be AMENDED carried 14-4 with REPS. CLARK, GUTSCHE, NEWMAN, and RASER voting no. (roll call vote)

REP. SALES then discussed an Amendment to not allow Federal Prisoners to be brought to Montana.

**Motion:** REP. SALES moved that HB 451 BE AMENDED.

**Discussion:**

There was much discussion among Committee members about this amendment. REP. NEWMAN then brought forth that if the wording in this bill is changed to add "court" behind "state," and then deleting the language regarding federal court.

**Vote:** Motion that HB 451 BE AMENDED carried 14-4 with REPS. GUTSCHE, NEWMAN, PARKER, and RASER voting no. (voice vote)

***{Tape: 1; Side: A; Approx. Time Counter: 199 - 500}***

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 500}***

After the amendments were resolved, the Committee requested that Frank Slaughter, Montana Department of Corrections answer questions pertinent to the issues surrounding HB 451.

There was extensive questioning by the Committee regarding, the screening of out-of-state inmates, the fact that CCC is a private industry and why should the State of Montana support it as it does not help the "bottom line" of Montana. An additional concern expressed by the Committee was if the inmates were to be screened for such diseases as tuberculosis and hepatitis A, B and C.

**Vote:** Motion that HB 451 DO PASS AS AMENDED carried 12-6 with REPS. CLARK, FACEY, GALLUS, GUTSCHE, NEWMAN, and RASER voting no. (roll call vote)

There was to be Executive Action on HB 140 until it was discussed by the Committee that HB 140 was part of a Joint Resolution. Executive Action was postponed.

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 201}***

**ADJOURNMENT**

Adjournment: 9:42 A.M.

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REP. JIM SHOCKLEY, Chairman

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PAMELA SCHINDLER, Secretary

JS/PS

**EXHIBIT** (juh31aad)